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UNCLAS SECTION 01 OF 04 KABUL 001802

DEPT FOR SRAP, SCA/FO, SCA/RA, AND SCA/A  
DEPT PASS FOR AID/ANE  
DEPT PASS USTR FOR DELANEY AND DEANGELIS  
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CENTCOM FOR CSTC-A  
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SENSITIVE

SIPDIS

E.O. 12958 N/A  
TAGS: [ETRD](#) [ECON](#) [AF](#)  
SUBJECT: AF-PAK TRANSIT TRADE TALKS, MEETING WITH MOCI AND PAK  
REACTION

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This cable was coordinated with Embassy Islamabad.

SUMMARY

1. (SBU) The Afghanistan-Pakistan Transit Trade agreement negotiation is seriously engaged following the June 23-24 meeting in Kabul. The two sides say they have agreed on much of the structure and language of their agreement and identified the difficult negotiating issues, including controlling smuggling, access to India, and developing a dispute resolution mechanism that will ensure effective implementation. They conducted a detailed review of existing obstacles to the transit of goods to and from Afghanistan and indicated their intention to deal with some of the practical obstacles, even as the talks progress. The next negotiating session is scheduled for August 4-5 in Islamabad. While Pakistan's insistence that this is a bilateral process resulted in the U.S. (and other international) observers' exclusion from the meetings, the U.S. needs to remain engaged in helping the sides reach an agreement that actually meets the parties' stated desire of smoothing movement of goods. The U.S. can help with support for an agreed study of the smuggling involved with transit trade and also should continue to study ways to support these talks by: a) pressing both sides on key disputed issues and b) accelerating implementation of the signed MOU with the U.S. Trade and Development Agency on cross-border initiatives. Afghan Commerce Minister Shahrani subsequently told Ambassador Wayne on two separate instances that he thought the Pakistanis were showing flexibility and trying to make a gesture via Afghan agriculture exports to India. He said the really tough nut, however, would be Indian exports to Afghanistan, where the Pakistanis fear losing the market. He expressed profound thanks for U.S. support. End summary.

THE VIEW FROM KABUL -- TRANSIT TRADE TALKS ATMOSPHERICS GOOD

2. (SBU) U.S. observers (SCA reps and Emboff) to the June 23-24 Transit Trade talks in Kabul reviewed progress in the negotiations with the lead negotiators several times over the course of the meetings. In a concluding review June 25, the lead negotiators for the two sides, Afghan Deputy Minister of Commerce and Industries Adib Farhadi and Pakistani Ministry of Commerce Senior Joint

Secretary Shahid Bashir indicated their satisfaction with the progress they made and the positive relationship being developed between the negotiating teams. Both agreed the mere fact talks are taking place has created a positive atmosphere to continue discussing this and other trade-related issues between the two countries. Farhadi characterized the working group sessions as "very busy," sometimes contentious, but always frank and open. The delegations had before them three versions of a draft agreement: the original Afghan draft text, a marked up version with Pakistani edits, and a set of Afghan comments on those edits. (Bashir noted how impressed he was by the Afghans' preparations for the talks.) The two sides have not yet established the coordination committee (APTTCC) to deal with issues that arise in the real world of transit and transport between the countries, as had been agreed in their MOU signed May 7, but said they expect to do so soon. The next round of talks will be held in Islamabad August 4-5.

#### TOUGH ISSUES REMAIN

13. (SBU) The delegations first covered items of agreement, which were extensive, in the draft text and protocols and then identified, discussed, and bracketed the following controversial issues:

-- Smuggling: the delegations are labeling smuggling as "unauthorized trade." Farhadi said this issue was important to address for the Pakistanis, given Pakistani manufacturers' concern. At Farhadi's suggestion, the countries decided to create a "joint study" to develop a better understanding of the scope and mode of this unauthorized trade and to identify appropriate responses beyond the Pakistani preferred tariff "harmonization" (i.e. selective Afghan tariff increases). The funding and scope of this study will be determined in subsequent contacts to prepare the next round of talks.

-- Wagha border crossing: The Pakistanis said this was a bilateral

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issue between them and India. The Afghans insisted transit across Pakistan to/from India is a key opportunity for them. Bashir pointed out three key Afghan demands, which Farhadi did not dispute, as: a) import of Indian goods through Wagha; b) the transit of Afghan goods through Pakistan to Wagha, regardless of who carries it; and c) access of Afghan trucks to Wagha to transport goods. (In a briefing to U.S. officers the night before, Farhadi characterized all three as a "deal breaker" for Afghanistan, and all three can be summed up as Afghan trucks having access to Wagha for both import and export of goods to and from India.) Bashir added that progress on any one of these issues relating to Wagha would be a "breakthrough." (Note: the Wagha issues are all still on the table between the two sides and will be addressed in subsequent rounds of talks, but the Afghans are pushing hard for some accommodation now because of the unusually abundant harvest this year that could mean greatly increased export revenues if its shippers get easy access to the lucrative Indian market. Subsequently the Pakistanis asked for specific Afghan exports and harvest schedules, which the Afghans took as a positive sign.)

-- Arbitration: The delegations have bracketed the entire draft text on this. The GOP sees a transit trade agreement as bilateral, thus no need for third party arbitration or a dispute resolution mechanism. During talks, Farhadi reported the Afghans suggested the U.S., the WTO, or the UN as potential arbitrators, but received no comment or commitment from the Pakistani delegation. Bashir addressed this with U.S. officials, saying while he recognized Pakistani commitment to multilateral dispute resolution mechanisms, such as the WTO, he said bilateral consultations seemed to be more appropriate for this agreement. The U.S. observers pressed Bashir on the need to develop a dispute resolution mechanism that would ensure an effective implementation of the new agreement and noted that there were many examples of bilateral agreements that include independent and third party arbitration, including some to which Pakistan is a signatory, such as the Indus waters agreement.

14. (SBU) Bashir and Farhadi agreed many issues were simplified by using international standards from multilateral agreements already committed to -- e.g., ECO, SAFTA, SAARC, and WTO. They said they

resolved issues that limit Afghan truckers, such as the ability to travel beyond Peshawar. The delegations discussed specific obstacles in detail and agreed to continue discussing them before the next round of talks, the joint study having been agreed upon as a vehicle for better informing the talks ahead. Bashir and Farhadi said they would make quick, practical improvements even as the talks continue, such as finding a way to expedite transport of a bumper Afghan fruit crop to Pakistan and beyond in the coming month. Bashir asked for a formal request to Pakistan to make arrangements for special treatment for clearance and movement of these perishable items and said he expected Pakistan would take appropriate effective action. Afghan Commerce Minister Shahrani June 24 wrote Pakistani Commerce Minister Fahim accordingly. Farhadi stressed success on expediting fruit exports would signal greater GIROA competence to Afghan farmers and traders in violent areas with narcotics problems, increasing the government's standing and credibility with major stakeholders.

15. (SBU) Both delegations agreed to consult China and Iran, as they have included in the agreement's text the border crossing of Sost (China) and Islam Qala (Iran). Farhadi stressed the importance of the Sost crossing for developing the Chinese-invested Aynak Copper Mine.

16. (SBU) U.S. observers met June 27 with Minister of Commerce and Industries Shahrani to discuss Transit Trade talks. He characterized the talks' environment as being "positive" and "encouraging." Shahrani said the Pakistanis had agreed, in principle, to allow Afghan goods into India, but not to allow Afghan trucks to transit Indian goods through Pakistani into Afghanistan. He said Pakistan appears to be using the security situation with India as a pretext to block further liberalization. Shahrani shared his June 24 letter to Fahim requesting assistance expediting Afghanistan's fresh fruit harvest into Pakistan this summer. Shahrani thanked the U.S. for its engagement on transit trade to date and encouraged USG officials to continue to press the

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Pakistanis, including at the highest levels. U.S. observers stressed the importance of concluding the talks by September 30 and producing a good agreement.

VIEW FROM ISLAMABAD

17. (SBU) In a June 28 meeting with visiting NSC Senior Director for International Economic Affairs David Lipton, SRAP Senior Economic Advisor Mary Beth Goodman, and Treasury DAS for Asia Robert Dohner, Secretary of Commerce Suleiman Ghani said that the GOP was very pleased with the outcome of the Kabul round of talks on transit trade, and confirmed that "80 percent" of the text is agreed. He admitted that coming to agreement on the remaining 20 percent would present challenges, but was upbeat that even the contentious issues had at least been discussed.

18. (SBU) Ghani said that the media focus on India notwithstanding, Pakistan's major concern is with smuggling. He said the GOP has concerns with goods moving from India to Afghanistan, but not the other way. Ghani referred to Pakistan's need to "rationalize trade with India;" once that happened, it would be more realistic to examine Indian trade transiting Pakistan to Afghanistan. He said that in principle, the GOP has "no problem" with Afghan trucks traveling through Pakistan to the Indian border without having to offload at Torkham. The trucks would, however, still have to switch their loads onto Indian trucks at Wagha. Although Ghani thought that the GOP is "closer than ever" to Afghan trucks transiting Pakistan to both Wagha and the ports, it is not economical for the trucks to return empty.

19. (SBU) Ghani welcomed technical assistance to address smuggling or infrastructure issues at the border, and promised to come up with a concrete proposal possibly to be funded via USTDA. Any arrangement must be economical for business, he stressed. He said the GOP is working hard to maintain the timeframe laid out in the May 7 MOU, but indicated that the September timeframe (to which both governments had agreed verbally) might slip to October/November, possibly because of the Afghan elections. Ghani confirmed, however,

the goal is still to conclude the new transit trade agreement well before the December 31 deadline.

¶10. (SBU) Lead negotiator, Joint Secretary of Commerce Shahid Bashir confirmed that the GOP had received the GIROA letter regarding expedited shipping for the upcoming Afghan fruit harvest. Ghani directed Bashir to quickly mobilize relevant GOP players to respond to the request ASAP, as the harvest is due imminently. In Kabul, Ambassador Wayne checked with Commerce Minister Shahrani July 5. He said the data requested by the GOP would be provided shortly and characterized this as an important positive gesture.

#### COMMENT

¶11. (SBU) Bashir's arguments against third party arbitration were consistent with other Pakistani positions during the talks, including the exclusion of all outside observers, such as the U.S. officials and the World Bank. Nonetheless, we pressed Bashir to consider the need for a third party arbitrator to ensure effective implementation and a credible, robust agreement. The talks were a good, positive step forward. If both sides implement practical, immediate measures, such as expediting export of Afghanistan's fruit harvest this season, it will create momentum in the Afghanistan-Pakistan partnership for these talks, and on the relationship more broadly. Additionally, such steps would also greatly assist the success of U.S. Af-Pak strategy goals. The U.S. should continue to study ways to support these talks: a) pressing both sides on key disputed issues, b) accelerating implementation of the signed MOU with the U.S. Trade and Development Agency on cross-border initiatives, and c) considering ways to assist with the agreed-upon joint study. Significantly, both Pakistani and Afghan delegation heads requested the U.S. to engage India as well on the Wagha border issue. Based on what both delegations said on the three major outstanding issues, particularly Wagha, it appears both countries are laying the groundwork for significant compromise and progress. The Afghan side's comments indicate they will be severely disappointed and would prefer to conclude no new agreement if some

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compromise is not reached on Wagha. Afghan Commerce Minister Shahrani on July 5 and 6 told Ambassador Wayne that he hoped the Pakistanis would allow Afghan agricultural exports to flow but he believed the Pakistanis feared losing the USD 1.5 billion annual sales to Afghanistan if they have to face Indian goods coming through Wagha. Shahrani said he believed U.S. interest and pressure has been essential for progress to date and would be also for future progress. Ambassador Wayne said we would definitely continue to engage. End comment.

¶12. (U) This cable was drafted and cleared in coordination with Washington observers to the Kabul talks and Embassy Islamabad.  
EIKENBERRY